

SENATE RECORD VOTE ANALYSIS

104th Congress
2nd Session

Vote No. 185

July 9, 1996, 2:55 p.m.
Page S-7468 Temp. Record

SMALL BUSINESS-MINIMUM WAGE/Small Business Tax Reform

SUBJECT: Small Business Job Protection Act . . . H.R. 3448. Roth modified amendment No. 4436.

ACTION: AMENDMENT AGREED TO, 96-2

SYNOPSIS: As reported, H.R. 3448, the Small Business Job Protection Act of 1996, will enact numerous tax reforms for small businesses, will extend expiring tax credits, will reform and simplify pension laws, and will increase the minimum wage to \$4.70/hour on July 5, 1996, and to \$5.15/hour on July 5, 1997. The cost of the tax changes will be offset, primarily by phasing out the section 936 tax credit for conducting business in Puerto Rico.

The Roth amendment would enact numerous additional bipartisan tax reform and tax credit extension provisions, including the following:

- the Labor Department would issue guidelines by March, 1997 for insurance companies to comply with the December 1993 Supreme Court decision in *John Hancock v. Harris Trust* (which held that the longstanding practice of including pension assets as part of an insurance company general account could violate Employee Retirement Income Security Act (ERISA) requirements); to protect the rights of plan participants and beneficiaries, those guidelines would contain strict standards that companies would have to meet in order to qualify for relief; the decision would be prospective except for cases based on fraudulent or criminal activities by insurers (in other words, insurers, who had been relying on Labor Department guidelines before the decision, would not be held retroactively liable for not anticipating the change in the *Harris Trust* case);
- most expiring tax credits would be extended to December, 31, 1997;
- the Internal Revenue Service (IRS) would be barred from treating membership dues collected by an agricultural or horticultural organization in years before 1987 as income derived in an unrelated trade or business if the organization had a reasonable basis for not treating membership dues as such income;
- the retirement benefits of clergy would not be subject to self-employment taxes and changes would be made regarding church pension plans;
- the section 29 alternative fuels tax credit would be extended until December 31, 1998;

(See other side)

YEAS (96)				NAYS (2)		NOT VOTING (2)	
Republican (51 or 100%)		Democrats (45 or 96%)		Republicans (0 or 0%)	Democrats (2 or 4%)	Republicans (2)	Democrats (0)
Abraham	Hutchison	Akaka	Inouye		Byrd	Cochran ⁻²	
Ashcroft	Inhofe	Baucus	Johnston		Simon	Cohen ⁻²	
Bennett	Jeffords	Biden	Kennedy				
Bond	Kassebaum	Bingaman	Kerrey				
Brown	Kempthorne	Boxer	Kerry				
Burns	Kyl	Bradley	Kohl				
Campbell	Lott	Breaux	Lautenberg				
Chafee	Lugar	Bryan	Leahy				
Coats	Mack	Bumpers	Levin				
Coverdell	McCain	Conrad	Lieberman				
Craig	McConnell	Daschle	Mikulski				
D'Amato	Murkowski	Dodd	Moseley-Braun				
DeWine	Nickles	Dorgan	Moynihan				
Domenici	Pressler	Exon	Murray				
Faircloth	Roth	Feingold	Nunn				
Frahm	Santorum	Feinstein	Pell				
Frist	Shelby	Ford	Pryor				
Gorton	Simpson	Glenn	Reid				
Gramm	Smith	Graham	Robb				
Grams	Snowe	Harkin	Rockefeller				
Grassley	Specter	Heflin	Sarbanes				
Gregg	Stevens	Hollings	Wellstone				
Hatch	Thomas		Wyden				
Hatfield	Thompson						
Helms	Thurmond						
	Warner						

EXPLANATION OF ABSENCE:

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

SYMBOLS:

- AY—Announced Yea
- AN—Announced Nay
- PY—Paired Yea
- PN—Paired Nay

- the grandfather clause for certain publicly traded partnerships would be extended to December 31, 1999;
- additional pension simplification provisions would be enacted, primarily to protect spouses of pension plan participants; and
- further clarifications would be made on the distinction between employees and independent contractors. The cost of the amendment would be fully offset, including by denying the personal exemption deduction and dependent care credit for a dependent for whom no Social Security number was provided on a tax filing and by extending the 10-percent air ticket and cargo excise taxes.

Those favoring the amendment contended:

The Chairman and ranking member of the Finance Committee have worked together to craft a major tax relief proposal that will primarily benefit small businesses, and this amendment, which they have also put together, builds on that proposal. In the fury of the debate on the minimum wage bill, we should not overlook the magnitude of our colleagues' accomplishment in crafting this bipartisan proposal. Tax code changes are almost always controversial and politically difficult. Given the intensely partisan spirit that has prevailed in this Congress, one would never have expected a 100-page major tax relief bill to come sailing through the Senate with nearly everyone's blessing, yet that is precisely the situation in which we find ourselves.

In crafting both the provisions in the bill and the provisions in the Roth amendment, one rule which was closely followed was to avoid including items that were controversial. Unfortunately, one provision of the Roth amendment, which was added at the request of a bipartisan group of Senators and which has been supported by the Clinton Administration, has drawn a small amount of controversy. That provision would require the Labor Department to draw up guidelines for adhering to the *Harris Trust* decision, and would provide that the decision would not be retroactively applied except in cases of fraud or criminal activities. Basically, those few Senators who object to that provision either mistakenly think that it would overturn the *Harris Trust* decision or that it has not been subjected to enough study. They suspect that somehow it would help insurance companies to the detriment of pensioners. To put our colleagues' minds at rest, we inform them that this provision has been carefully negotiated over the past year and a half between all the parties concerned, and that it is widely supported as a fair, and needed, response to the *Harris Trust* decision. Its two main benefits are that it would eliminate a great deal of uncertainty regarding pensions, and that it would prevent trial lawyers from gaining a windfall from suits that retroactively applied the *Harris Trust* decision to actions that were legal before the decision.

All of the provisions of the Roth amendment are meritorious, and all have very broad bipartisan support. Our colleagues who have found fault with the provisions on the *Harris Trust* decision are sincere in their opposition, but their objections are baseless. Whether Senators are for or against raising the minimum wage, they should support this amendment.

Those opposing the amendment contended:

The *Harris Trust* decision is not a little throw-away item--it deals with funds of \$300 billion to \$500 billion. This case has the insurance companies on one side and pensioners on the other. The Roth amendment contains a section that we think would side with the insurance companies, and our colleagues are ready to approve it without a murmur. As we read the amendment, the *Harris Trust* decision would be effectively overturned; as our colleagues read it, the decision would only be clarified. Frankly, this issue is so huge that the Senate should hold hearings on it before taking any further action. Therefore, though we know that we will not prevail on this vote, we will oppose the Roth amendment.